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Federal Communications Commission

DA 99-1285

DISPATCHED

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Amendment of Section 73.202(b),)	MM Docket No. 98-211
Table of Allotments,)	RM-9349
FM Broadcast Stations.)	RM-9477
(Logan, Utah and Evanston, Wyoming) ¹)	

REPORT AND ORDER
(Proceeding Terminated)

Adopted: June 23, 1999

Released: July 2, 1999

By the Chief, Allocations Branch:

1. In response to a Petition for Rule Making filed by L. Topaz Enterprises, Inc. ("Topaz"), the Commission has before it for consideration the Notice of Proposed Rule Making, 13 FCC Rcd 23343 (1998), requesting the allotment of Channel 252C3 at Logan, Utah, as that community's third local FM broadcast service. Topaz filed comments supporting the allotment of Channel 252C3 at Logan. M. Kent Frandsen ("Frandsen") filed a counterproposal.² On February 16, 1999, M. Kent Frandsen and Topaz filed a Request for Approval of Settlement. No other comments were received at the Commission in response to the Notice issued in this proceeding.

2. The Notice proposed the allotment of Channel 252C3 at Logan, Utah, as that community's third local FM service. Topaz pointed out that Logan has the usual indicia of a community with a population of 32,762 people. Logan is located in Cache County in northern Utah, approximately 115 kilometers north of Salt Lake City.

3. Frandsen counterproposed the allotment of Channel 252C2 at Evanston, Wyoming, as that community's second FM broadcast station. According to Frandsen, Evanston has a population of 10,903 people and has only one AM and one FM station while allotment of Channel 252C3 at Logan will provide a fifth service to the community as Logan currently has two FM stations and two AM stations.

¹ The community of Evanston, Wyoming, has been added to the caption.

² The counterproposal was put on Public Notice on February 17, 1999, Report No. 2317 (RM-9477).

4. In accordance with Section 1.420(j) of the Commission's Rules, Frandsen and Topaz filed a Request for Approval of Settlement between the two parties. Documentation has been provided showing that Topaz has been promised or paid only its out-of-pocket expenses in connection with the withdrawal of interest for Channel 252C3 at Logan. Specifically, Dale Ganske, President of L. Topaz Enterprises stated that Topaz was paid \$2,000 for expenses incurred in the filing of the rulemaking request. Further, Larry Fuss, the engineering consultant retained by Topaz states that he billed Topaz \$2,000 for work performed on this project. Frandsen also provided a document stating that he had paid Topaz only \$2,000 for withdrawal of interest in the channel at Logan.

5. In view of the above information and in the absence of any further interest by Topaz in the Logan allotment, we believe the public interest would be served by allotting Channel 252C2 at Evanston, Wyoming. A staff engineering analysis indicates that Channel 252C2 can be allotted to Evanston consistent with the Commission's spacing requirements without a site restriction.³

6. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Sections 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS ORDERED, That effective August 16, 1999, the FM Table of Allotments, Section 73.202(b) of the Commission's Rules, IS AMENDED for the community listed below, as follows:

Community	Channel Number
Evanston, Wyoming	252,C2, 291C3

7. A filing window for Channel 252C2 at Evanston, Wyoming, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

8. IT IS FURTHER ORDERED, That the Petition for Rule Making filed by L. Topaz Enterprises, Inc. (RM-9349) IS DISMISSED.

9. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

³ The coordinates for Channel 252C2 at Evanston are 41-16-00 and 110-57-48.

10. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 418-2180. Questions related to the application filing process for Channel 252C2 at Evanston, should be addressed to the Audio Services Division, Mass Media Bureau, (202) 418-2700.

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Chief, Allocations Branch
Policy and Rules Division
Mass Media Bureau